IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21723 of 1994

Between:

V.Satyanarayana Murthy, S/o.Subba Rao, aged 42 years,

Secretary, Chadalada Primary Agricultural Co-operative

Society, Peddapuram Mandal, East Godavari district.

..... PETITIONER

AND

1. The General Manager, District Co-operative Central

Bank, Kakinada,

2. The District Co-operative Officer, Kakinada,

3. Primary Agricultural Co-operative Society, Chadalada,

Peddapuram Mandal, East Godavari district,

Rep. By its President,

4. I.Satyanarayana, Circle Supervisor, D.C.C.Bank Ltd.,

Bheemavaram Branch, Kakinada, East Godavari district.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to call for the records pertaining to the order of suspension of the petitioner in proceedings dated 7.11.1994 and set aside the same as illegal, contrary to the provisions of the A.P. Co-operative Societies Act, the Rules made thereunder and a mala fide action by issuance of Writ of Mandamus or any other appropriate Writ, order or direction and pass such other order or orders as it may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR. V.AJAY KUMAR

Counsel for Respondents: GOVT. PLEADER FOR CO-OPERATION

The Court made the following ORDER:

The present writ petition is filed questioning the suspension order of the petitioner dated 07.11.1994 on the ground that it was issued without jurisdiction.

2. Consequent on the abolition of four District Co-operative Central Banks in East Godavari district, the District Collector decategorised Secretaries and the petitioner was allotted to the third respondent-Society. Accordingly, he relieved and reported for duty in the third respondent-Society on 16.05.1987. On 03.10.1994 a memo was issued to the petitioner for misappropriation of an amount of Rs.18,221=93 ps., for which an explanation was submitted by the petitioner 06.10.1994. The petitioner was placed under suspension by the first respondent-The General Manager, District Co-operative Central Bank, Kakinada, by his proceedings dated 07.11.1994. According to the writ petitioner, the suspension order passed by the first respondent is void and contrary to the
bye-laws of the Society and it is without jurisdiction. Hence, the present writ petition is filed.

3 . The second respondent-The District Co-operative Officer, Kakinada, filed a counter-affidavit stating that as per Rule 72(5) of the A.P. Co-operative Societies Rules, 1964, the disciplinary control vests with the General Manager, District
Co-operative Central Bank and the District Co-operative Officer only. As the final allotment was not done in East Godavari district, the Managing Committees of the Societies have no jurisdiction to initiate disciplinary control over the Secretaries. As stay was granted by this Court, final allotment was not done. The petitioner temporarily misappropriated an amount of Rs.18,000/-. Hence, there are no grounds to grant the relief sought for by the writ petitioner.

4 . The learned Counsel for the petitioner contended that as per byelaws of the Society, the Managing Committee is competent to place the petitioner under suspension. But, in this case, the General Manager of the District Co-operative Central Bank, Kakinada, passed the impugned order. It is totally without jurisdiction and therefore, he prayed to set aside the same.

5. On the other hand, the learned Government Pleader for Co-operation appearing

for respondents, contending that as no final allotment was done, the General Manager of the District Co-operative Central Bank, Kakinada, is having disciplinary control and therefore, the order under challenge does not suffer from any legal infirmities so as to call for interference by this Court. Hence, she prays to dismiss the writ petition.

6 . The proceedings of the District Collector (Co-operation), Kakinada, dated 09.05.1987 in Rc.No.16223/84A, shows that the Collector allotted the writ petitioner to the Primary Agricultural Co-operative Society, Chadalada, to work as Secretary. When once the allotment order is passed by the competent authority the writ petitioner is said to be under the control of the Primary Agricultural Co-operative Society. As per byelaws of the Society, the disciplinary control vests with the Managing Committee of the Society in consultation with the District Level Committee and a Secretary of the Society can be placed under suspension. Therefore, the impugned order is not issued by the Managing Committee of the Society. The Counsel for the petitioner relied upon a division bench decision of this Court in Writ Petition No.11049 of 2001 and Writ Appeal No.343 of 2002 between Budithi Nagabhushanam Vs. Government of Andhra Pradesh, represented by its Secretary, Co-operation Department, Secretariat, Hyderabad and three others, wherein it is held as follows:

> "In the instant case, the writ petitioner became the permanent employee of the 4th respondent-Society, as he was allotted by the District Collector by orders dated: 9.5.1987 to the 4th respondent-Society, to work as Secretary of the reorganized 4th respondent-Society and accordingly, he has been functioning as Secretary of the 4th respondent-Society. It cannot be said that the said allotment has not become final and therefore, the 2nd respondent has no power to exercise the disciplinary control over the writ petitioner. 4th respondent alone is entitled and empowered to exercise the disciplinary control over the writ petitioner and therefore, the impugned order of suspension made by the 2nd respondent is illegal and contrary to Rule 72 of the Andhra Pradesh Co-operative Societies Rules and the same is hereby set aside."

In this case also, the District Collector allotted the petitioner to the third respondent-Society. Therefore, under the byelaws of the Society, the Managing Committee can place the writ petitioner under suspension. So, the impugned order is totally without

jurisdiction. Hence, the impugned proceedings are set aside. However, this order will not preclude the third respondent-Society in taking appropriate action as per law.

7. Accordingly, the writ petition is allowed. In the circumstances, no costs.

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(K.C.BHANU, J)

Dated: 7th July, 2004.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on Wednesday this the Seventh day of July, Two thousand and four.

ASSISTANT REGISTRAR

// TRUE COPY

SECTION OFFICER

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Copies to

1.The General Manager, District Co-operative Central Bank, Kakinada.

2.The District Co-operative Officer, Kakinada.

3.The President, Primary Agricultural Co-operative Society, Chadalada,

Peddapuram Mandal, East Godavari district.

4.Sri I.Satyanarayana, Circle Supervisor, D.C.C.Bank Ltd.,

Bheemavaram Branch, Kakinada, East Godavari district.

5.Two CCs to the learned Government Pleader for Co-operation,

High Court Buildings, Hyderabad (O.U.T).

6.Two CD copies.